IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 22319 of 2004(F)

PETITIONER:

T.P.NARAYANAN, AGED 57 YEARS,
S/O. APPUKUTTAN, RETIRED STORE SUPDT.,
DIST.MEDICAL STORES, THRISSUR,
THADAMPALLIYALIL HOUSE, P.O. MAMMENGODE,
PALAKKAD DISTRICT.

BY ADV. SRI.P.K.JOSE,
SRI.T.BHASKARAN.

RESPONDENTS:
----

1. **THE SECRETARY,**
   MINISTRY OF HEALTH, GOVERNMENT OF KERALA,
   P.O. THIRUVANANTHAPURAM.

2. **THE DIRECTOR OF HEALTH SERVICES,**
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM P.O.

3. **THE DISTRICT MEDICAL OFFICER OF HEALTH,**
   THRISSUR, P.O. THRISSUR.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.22319/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REQUEST DT. 08/02/2004 BY THE PETITIONER TO THE R.2.

EXT.P.2: COPY OF THE LETTER DTD. 28/09/2000 ALONG WITH THE RELEVANT PORTION OF ANNEXURE TO THE LETTER BY THE STORE SUPDT., TO THE R.2.

EXT.P.3: COPY OF THE APPRECIATION LETTER DT. 03/10/2000 FROM THE AUDIT TEAM.

EXT.P.4: COPY OF THE LETTER DT. 11/07/2001 FROM THE PETITIONER TO M/S. CORE HEALTH LTD., M/S. GUJARAT INJECT LTD., M/S. BENGAL CHEMICALS AND PHARMACEUTICALS LTD.

EXT.P.5: COPY OF THE LETTER DO.LR.NO.MSA 4-50937/01/DHS DT. 12/11/2002 OF ADDL. DIRECTOR, HEALTH SERVICES TO THE PETITIONER.

EXT.P.6: COPY OF THE LETTER DT. 03/12/2002 SENT BY THE PETITIONER TO THE ADDL. DIRECTOR OF HEALTH SERVICES.

EXT.P.7: COPY OF THE LETTER NO. MBA 4 - 50937-2001/DHS DT. 24/09/02 FROM THE R.3. TO R.1.

EXT.P.8: COPY OF THE LETTER NO. S1-211/04 DHS DT. 08/09/2004 FROM THE STORE SUPDT., TO THE R.3.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

KURIAN JOSEPH J.

W.P.(C) No.22319 of 2004

Dated 6th July, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "To issue a writ of mandamus or any other appropriate writ commanding the respondents to release the unlawfully withheld amount of Rs.23,378/- along with interest on the full amount of Rs.2,20,044/- till 27.4.2004 and on Rs.23,378/- from 27.4.2004 till date."

In view of Ext.P7 communication addressed by the Director to the Government and also Ext.P8 letter from the Store Superintendent to the DMO, it is submitted that the petitioner had taken prompt action to report the matter to the DMO and hence he cannot be made liable for the delay on the part of the DMO and that no liability can be fastened on him. It is seen that the matter is not examined by any authority with notice to the petitioner. Therefore, it is only appropriate that the Government considers the grievance of the petitioner in the light of the materials made available before this Court. The writ petition is disposed of as follows :-

The petitioner may file a comprehensive

representation before the first respondent within two months from today. Thereafter, the matter will be considered by the first respondent with notice to the petitioner and appropriate orders, adverting to the contentions taken by the petitioner will be passed, within another four months. In case it is found that the petitioner is not liable for the amount withheld from his DCRG, the same shall be disbursed to the petitioner with 8% interest from the date of expiry of one year of his retirement, within another two months.

KURIAN JOSEPH, JUDGE.

tgs

KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 6th July, 2007.